

Robert Mahler, Pro Se
P.O. Box 7658
Salem, Oregon 97303
(503)589-4878

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Robert Evans Mahler;

Plaintiff,

v.

State of Oregon; Marion County,

Oregon; Marion County Justice

Court; Marion County Sheriff

Senior Deputy Jeff Nicoloff;

and Does 1-10;

Defendants

Civil Action No. 6:19-cv-00695-MC

COMPLAINT

Complaint in Common Law Tort;

Tort (Federal Tort Claims Act

28 U.S.C. §1332 & §2671); 4th,

5th, and 14th Amendment Civil

Rights Violations; Negligence;

Jury Trial Requested

FILED MAY 19 15 10 PM '19

PRELIMINARY STATEMENT

PLAINTIFF, complaining of the Defendants, alleges as follows:
This is a combined action, to include Civil Rights Violations by Defendants, redress of the deprivation of rights and privileges secured to Plaintiff by the Constitution of the United States of America, and Fourth, Fifth, and Fourteenth Amendments of the Bill of Rights, Conspiracy, Negligence, Intentional Infliction of Emotional Distress, and Intimidation. Defendants, their agents, and employees have subjected Plaintiff to harassment and violations of his civil rights.

PARTIES

1. Plaintiff, Robert Mahler, is a resident of Marion County, State of Oregon. The matter in controversy exceeds fifty thousand dollars (\$50,000), exclusive of interest, and costs.
2. Defendants, Marion County Justice Court (MCJC) is an agency and subdivision of Defendant Marion County, Oregon, which is part of the State of Oregon.
3. Deputy Jeff Nicoloff is a Senior Officer with Marion County, Oregon, Sheriff's Office.
4. The term "Defendants" is used in this Complaint to refer to all Defendants, and Does 1-10 collectively and individually, unless otherwise specified. Defendants, Does 1-10, are individual U.S. citizens, and those acting on behalf of the State of Oregon, who are at all times herein relevant, past or present officials, past or present employees, of the State of Oregon, MCJC, Marion County Sheriff's Department. They are being sued here, both as individuals, and in any official capacity.
5. "DOES 1-10" is a fictitious name used to designate parties not presently known to Plaintiff.

FACTS

6. On, or before, February 25, 2019, April 3, 2019, and April 17, 2019, Plaintiff submitted legal documents, in the form of Motions to

Proceed in Forma Pauperis, and Affidavits to the Marion County Justice Court, 4660 Portland Rd. NE Suite 107, Salem, Oregon. Plaintiff was issued a traffic citation by Marion County on 12/28/18.

7. Each time Plaintiff submitted his Forma Pauperis legal documents as stated above, the the Marion County Justice Court Judge did not process, render a decision, or pass the Forma Pauperis documents on to Marion County Circuit Court for processing.

8. On April 3, 2019, during an abbreviated trial at Marion County Justice Court, Plaintiff was denied time to review evidence, proposed to be used that day, by the Marion County's Senior Deputy Nicoloff. Plaintiff, on April 3, 2019, was also denied the time to completely plead his case. Marion County Citation and Case Number is 18-24812259.

VENUE

9. Venue in this District is proper under 28 U.S.C.; 28 U.S.C. Sections 1391 and 1391(e), and 42 U.S.C. Sect. 12101(b) (1).

JURISDICTION

10. Jurisdiction is conferred on this Court by 28 U.S.C. Sect.1343; Sect. 1331 for civil actions arising under the Constitution and laws of the U.S.

Count 1

VIOLATIONS OF FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

11. Plaintiff repeats and realleges each and every allegation contained herein above as though set forth more fully herein.

12. On, or before, February 25, 2019, April 3, 2019, and April 17, 2019 Defendants caused Plaintiff to be treated differently, by creating and enforcing a deliberate scheme to not process Plaintiff's legal documents requesting the court to grant him Forma Pauperis status, to deny him viewing of evidence prior to trial, and deny him time to plead his case.

13. On, or before, February 25, 2019, April 3, 2019, and April 17, Defendants, acting under the color of law, unconstitutionally acted in concert, through artifice and misrepresentation, to willfully, abbreviate, suborn, wrongfully and unlawfully, with malice, deprive Plaintiff of his constitutionally protected rights to due process and equal protection under the law as guaranteed him under the Fourteenth Amendment to the Constitution of the United States by failing to process Plaintiff's legal documents requesting the court to grant him Forma Pauperis status, to not allow viewing of evidence prior to trial, and deny him the time to plead his case.

14. As a direct and proximate result of the wrongful acts of above-named Defendants, Plaintiff suffered intimidation, embarrassment, discomfort, and violations of his civil rights.

15. As a proximate result of Defendants' wrongful acts, omissions, and misconduct, Plaintiff has been injured and demands judgment against the Defendants jointly, severally and/or in the alternative on this cause of action other damages in an amount in excess of the jurisdictional limits of this Court and to be determined at the trial herein, together with interest, exemplary or punitive damages, attorney's fees and costs of this action.

Count 2

DUE PROCESS VIOLATIONS OF FIFTH AND FOURTEENTH AMENDMENTS TO THE
UNITED STATES CONSTITUTION, AND 42 U.S.C. 1983 CIVIL RIGHTS

16. Plaintiff repeats and realleges each and every allegation contained herein above as though set forth more fully herein.

17. On, or before, February 25, 2019, Defendants enacted and enforced arbitrary and capricious written and, or unwritten rules and regulations to deprive Plaintiff of his civil rights under color of law and, without due process.

18. On, or before, February 25, 2019, April 3, 2019, and April 17 Defendants failed to process Plaintiff's legal documents requesting the court grant him Forma Pauperis status, failed to allow him to view evidence prior to trial, and denied him time to plead his case

19. Plaintiff has no effective means of enforcing his Fifth and Fourteenth Amendment rights other than by seeking declaratory and other relief from the Court.

20. As a proximate result of Defendant's wrongful acts, omissions, and misconduct, Plaintiff has been injured and demands judgment against the above named defendants jointly, severally and/or in the alternative on this cause of action other damages in an amount in excess of the jurisdictional limits of this Court and to be determined at the trial herein, together with interest, exemplary or punitive damages, attorney's fees and costs of this action.

COUNT 3

Negligence

21. Plaintiff repeats and realleges each and every allegation contained herein above as though set forth more fully herein.

22. On, or before, February 25, 2019, April 3, 2019, and April 17 Defendants acting under color of law, negligently intimidated, embarrassed, and humiliated Plaintiff by failing to process Plaintiff's legal documents requesting the court to grant him Forma Pauperis status, to not allow viewing of evidence prior to trial, and deny him time to plead his case.

23. Plaintiff avers that Defendants' breach of duty and negligence was a proximate cause of injury and damage to Plaintiff that resulted from their actions and emotional abuse of Plaintiff.

24. As a proximate result of Defendants' wrongful acts, omissions, and misconduct, Plaintiff has been injured and demands judgment against the Defendants jointly, severally and/or in the alternative on this cause of action other damages in an amount in excess of the jurisdictional limits of this Court and to be determined at the trial herein, together with interest, exemplary or punitive damages, attorney's fees and costs of this action.

Count 4

VIOLATIONS OF THE FIFTH & FOURTEENTH AMENDMENTS

TO THE UNITED STATES CONSTITUTION

25. Plaintiff repeats and realleges each and every allegation contained herein above as though set forth more fully herein.

26. On, or before, February 25, 2019, April 3, 2019, and April 17 and at other times herein mentioned, Defendants, acting under color of law, refused to process Plaintiff's legal documents requesting the court to grant him Forma Pauperis status, did not allow viewing of evidence prior to trial, and denied him the time to plead his case.

27. As a proximate result of Defendants' wrongful acts, omissions, and misconduct, Plaintiff has been injured and demands judgment against the Defendants jointly, severally and/or in the alternative on this cause of action other damages in an amount in excess of the jurisdictional limits of this Court and to be determined at the trial herein, together with interest, exemplary or punitive damages, attorney's fees and costs of this action.

REQUEST FOR STAY OF FINES AND APPEAL FEES

28. Plaintiff respectfully requests that this Court, if possible, stay the payments for fine and appeal due the Marion County Justice Court and Marion County Circuit Court for a fine levied at trial and for the cost of the appeal, which are \$250.00 & \$265.00 respectively.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against the Defendants, jointly and severally, as follows:

- a. As compensatory damages, the sum of \$50,000.00;
- b. As punitive damages, the sum of \$100,000.00;
- c. As economic damages, the sum of \$5,000.00.
- d. The costs and disbursements of this action;
- e. Such injunctive relief as the Court deems appropriate;
- f. All future attorney fees incurred in prosecuting this action pursuant to U.S.C. Sect. 1988;
- g. Such other relief as the Court deems proper and just;
- h. For the cost of this action.



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Salem, OR 97303

(503) 589-4878

5/2/19
Dated